

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**In re Asbestos Products Liability Litigation (NO. VI)**

**MDL 875**

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**MARGARET L. WONDRASH, as Special  
Administrator of the Estate of Michael Morris,**

Plaintiff,

**-vs-**

**Case No. 94-C-216**

**CBS CORPORATION,**

Defendant.

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**DECISION AND ORDER**

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This matter comes before the Court on CBS Corporation's third motion to re-open discovery. For the reasons previously stated, this motion is denied. ECF No. 101, July 28, 2013 Decision and Order at 2 ("Revisiting the MDL court's rulings or excusing a party's non-compliance with the MDL court's scheduling orders would undermine" the purpose of consolidated proceedings, which are to "avoid duplication of discovery, to prevent inconsistent pretrial rulings, and to conserve the resources of the parties, their counsel and the judiciary").

In one aspect, CBS does not seek to "re-visit" previous MDL rulings. After the remand, the Court allowed certain limited discovery, with a deadline of February 10, 2014. CBS argues that it first learned of a potential witness — Dr. Philip M. DeTrana — at a point when it was too late to comply with this deadline. However, Dr. DeTrana

was disclosed as part of the plaintiff's "AO12" report way back in July of 2012. ECF No. 121, Ex. 13, at 11-12. This report was referenced in plaintiff's interrogatory responses, which were provided to all counsel on January 15, 2013. *Id.*, Ex. 15, 16. Thus, CBS missed the deadline due to its own lack of diligence. *Alioto v. Town of Lisbon*, 651 F.3d 715, 720 (7th Cir. 2011) ("In making a Rule 16(b) good-cause determination, the primary consideration for district courts is the diligence of the party seeking amendment").

CBS's repeated attempts to re-open discovery must stop. With minor exceptions, discovery was governed by the MDL court's scheduling orders. CBS may be sanctioned if it files another motion with respect to discovery. *Johnson v. Cherry*, 422 F.3d 540, 548-49 (7th Cir. 2005).

CBS's motion to re-open discovery [ECF No. 118] is **DENIED**.

Dated at Milwaukee, Wisconsin, this 25th day of June, 2014.

**BY THE COURT:**

  
HON. RUDOLPH T. RANDA  
U.S. District Judge